

R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 34-41, 45-50, 52, 54-59, 61-63, 66, 69-75, 77-84, 88-93, 95, 97-102, 104-106, 108, 109 and 112-118 under 35 U.S.C. §103 as being unpatentable over Fu et al. (U.S. Patent No. 4,803,625; hereinafter Fu) and Lee (U.S. Patent No. 4,838,275) in view of Kirk et al. (U.S. Patent No. 5,390,238; hereinafter Kirk) has been obviated by amendment and should be withdrawn.

The rejection of claims 42, 44, 85 and 87 under 35 U.S.C. §103 as being unpatentable over Fu, Lee and Kirk and further in view of Beckers (U.S. Patent No. 5,019,974) has been obviated by amendment and should be withdrawn.

The rejection of claims 51, 53, 60, 64, 67, 68, 94, 96, 103, 107, 110 and 111 under 35 U.S.C. §103 as being unpatentable over Fu, Lee and Kirk and further in view of Fujimoto (U.S. Patent No. 5,339,821) has been obviated by amendment and should be withdrawn.

The rejection of claims 43 and 86 under 35 U.S.C. §103 as being unpatentable over Fu, Lee and Kirk, and further in view of

Examiner's use of Official Notice is respectfully traversed and should be withdrawn.

The rejection of claims 76 and 119-138 under 35 U.S.C. §103 as being unpatentable over Fu, Lee and Kirk, and further in view of Examiner's use of Official Notice is respectfully traversed and should be withdrawn.

The previous amendment clarified that the central server transmitted stored program instructions to each of the plurality of remote patient sites. This section of the claim was hardly addressed in the Examiner's action. In particular, the Office Action does not even recite the newly added limitations, but merely adds the citation to column 8, lines 4-10. When reviewing that section of the reference, it is unclear how this applies to the claims. In particular, column 8, lines 4-10 of Fu states that:

"The microcomputer 24 is preferably programmed with a multi-user, multi-tasking operating system such as the UNIX system which includes suitable programs for receiving communications from the home units 60, preparing appropriate reports, and directing appropriate instructions or data files to the respective home units 60."

This section of Fu is unclear whether the home units respond to a set of program instructions received from the central server. At best, the central server runs programs that receive "communications" from the home units 60. It is unclear how these "communications" could be read as a stored set of program

instructions, as presently claimed. The Examiner is reminded of the requirement to present a rationale for any combination. It is unclear how a rationale for a combination can be made when the claimed text of the reference does not even support the element the Examiner is relying on the citation to make.

A new citation to column 2, lines 14-20 of Fu is also provided. This section of Fu merely states that:

"According to a second feature of this invention, a personal health monitor adapted to be powered by an alternating current power source comprises means for collecting information indicative of the physical condition of the patient, ..."

It is unclear how the alternating current power source in the reference relates to the claimed invention. Again, the Examiner is reminded of the requirement to form a rationale for the rejection. It appears that this line of reasoning is not in accordance with modern practice and/or the MPEP.

Fu, Lee and Kirk do not teach or suggest a central server that transmits computer program instructions to remote patient sites where the transmitted computer program instructions are stored at the remote patient site and transmitting program instructions from a central server to a remote patient site that when executed at the remote patient site collect patient health-related data, as presently claimed. As such, the presently claimed

invention is fully patentable over the cited references and the rejections should be withdrawn.

APPLICATIONS UP FOR THIRD AND SUBSEQUENT ACTIONS

Should the Office decide to continue rejecting the claimed invention, Applicant's representative respectfully requests under MPEP 702.02 that a supervisory patent examiner personally check on all subsequent Office Actions with a view to finally conclude prosecution. Verification of the SPE reviews may be evidenced by the SPE's signature at the end of the Office Actions.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

Respectfully submitted,

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c/o Health Hero Network
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